APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,886	01/18/2001	Brian Keith Schmidt	SUNMP586	9319

				EXAMINER
32291	7590	02/27/2006		BRUCKART, BENJAMIN R

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ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.
09/765,886</td><td>Applicant(s)
SCHMIDT, BRIAN KEITH</td></tr>
<tr><td>Examiner
Benjamin R. Bruckart</td><td>Art Unit
2155</td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 December 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-13 and 15-20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-13 and 15-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Detailed Action

Status of Claims:

Claims 1-6, 8-13, 15-20 are pending in this Office Action.

Claim 8 is amended.

The double patenting rejection is withdrawn in light of applicant's terminal disclaimer.

Response to Arguments

Applicant's arguments filed 12/29/05 have been fully considered but are not persuasive.

See remarks below.

<u>**Applicant's invention as claimed**</u>:

Claims 1-3 and 6; 8-10, 13; 15-17, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,247,109 by Kleinsorge et al.

Regarding claim 1, a method for managing resources for an active computing environment (Kleinsorge: col. 4, lines 43-54) comprising:

encapsulating said active computing environment into a compute capsule (Kliensorge: col. 4, lines 43-54; encapsulated by subdividing into multiple partitions), the compute capsule comprising a plurality of processes (Kliensorge: col. 22, lines 5-9) and their associated system environment (Kliensorge: col. 5, lines 4-15; state), the encapsulating comprising partitioning an operating system so that host-dependant and personalized elements of the active computing environment are moved into the computer capsule (Kliensorge: col. 4, lines 43-54; col. 5, lines 4-15; the operating system is subdivided onto each partition and is host dependent so that it can

move between processors) while shared resources and a state necessary to manage them are

excluded from the compute capsule (Kliensorge: col. 4, lines 51-52, 63-66; col. 23, lines 54-65);

assigning system resources to said compute capsule, thereby collectively assigning said

system resources to said plurality of processes (Kleinsorge: col. 4, lines 63-66; col. 5, lines 4-15).

Regarding claim 2, the method of claim 1 wherein said system resources comprise a guaranteed

share of resources (Kleinsorge: col. 8, lines 20-34).

Regarding claim 3, the method of claim 1 wherein said assigning comprises applying a resource

management algorithm (Kleinsorge: col. 3, lines 43-56; policy implemented).

Regarding claim 6, the method of claim 1 wherein said assigning comprises allowing user-level

control over allocation of the system resources among the plurality of processes in the computer

capsule (Kleinsorge: col. 1, lines 34-47; col. 3, lines 35-56).

While the examiner understands the difference between a method, system and a computer
program product, the examiner relates these to the hardware, features, and software in which the
invention runs. Therefore claims 8-10, 13 and 15-17, 20 are rejected under the same grounds as
their corresponding substantially similar claims from 1-3, 6.

1	8	15
2	9	16
3	10	17
6	13	20

**Claims 4-5, 11-12, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable
by U.S. Patent No. 6,247,109 by Kleinsorge et al in view of U.S. Patent No. 6,061,795 by
Dircks et al.**

Regarding claim 4,

The Kleinsorge reference teaches:

the method of claim 1 but does not explicitly state restricting access from a network.

The Dircks reference teaches restriction said compute capsule from accessing a network (Dircks: col. 3, lines 22-37).

The Dircks reference further teaches the invention transparently and without interference allocates and facilitates access to resources to users (Dircks: col. 1, lines 33-67).

Therefore it would have been obvious to one of ordinary skill in the art to create the method of managing resources as taught by Kelinsorge while employing restricting access as taught by Dircks to transparently and without interference, allocate and facilitate access to resources to users (Dircks: col. 1, lines 33-67).

Claim 5 is rejected under the same rationale given above. In the rejections set forth, the examiner will address the additional limitations and point to the relevant teachings of Kleinsorge and Dircks.

Regarding claim 5, the method of claim 1 wherein said assigning comprises restricting said compute capsule from accessing a local file system (Dircks: col. 8, lines 1-13).

While the examiner understands the difference between a method, system and a computer program product, the examiner relates these to the hardware, features, and software in which the invention runs. Therefore claims 11-12 and 18-19 are rejected under the same grounds as their corresponding substantially similar claims from 4-5.

4	11	18
5	12	19

REMARKS

Applicant has amended claim 8 to change the language from 'the active computing environment' to 'an operating system.'

The Applicant Argues:

The Kleinsorge reference does not teach 'partitioning an operating system' so that host-dependent and personalized elements of the active computing environment are moved into the compute capsule while shared resources and state necessary to manage them are excluded from the compute capsule.

In response, the examiner respectfully submits:

The Kleinsorge reference does teach the claimed limitations. The examiner will explain the interpretations of the reference with associations to the claimed limitations.

Kleinsorge teaches a method for managing resources for an active computing environment as recited in the preamble. Kleinsorge teaches in col. 4, lines 43-55 a single multiprocessor system (active computing environment) that has partitions of dedicated resources and shared resources and the invention assigns resources.

The limitation of 'encapsulating said active computing environment into a compute capsule' is taught in col. 4, lines 43-55. Compute capsules are partitions each able to run a distinct copy or instance of an operating system. The 'capsule comprising a plurality of processes and their associated system environment' is taught in the partition. The associated system environment is the current state saved into the capsule as initialized or un-initialized. The processes are the tasks run col. 23, lines 5-9.

The limitation of 'the encapsulating comprising partitioning an operating system' is taught in col. 4, lines 43-54 of Kleinsorge. We see a system subdivided into partitions each with the ability to run its own so copy or instance of an operating system. A partition is defined as 'A) the act or process of dividing something into parts or B) The state of being so divided.' [as defined by dictionary.com]. The partitions are host-dependent and personalized elements of the active computing environment because they are movable as illustrated in col. 5, lines 4-27 as being portable between resources likes processors. The host-dependant (hardware state) and personalized elements (owner) are moved into the compute capsule.

Shared resources (col. 4, lines 43-54) and state necessary to manage them (col. 23, lines 54-65) are excluded from the compute capsule are taught as the shared resources that are managed by the APMP database. Assigning system resources to said compute capsule is taught in col. 5, lines 4-15 where a processor can be assigned to the partitions and a plurality can be assigned is taught in col. 8, lines 20-34.

The examiner suggestions perhaps defining further the 'partitions of the operating system' as being able to be moveable 'between between computers and stored on offline drives' from specification page 10, second paragraph. The broad language allows Kleinsorge to read openly on the claim limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 8:00-5:30PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Benjamin R Bruckart
Examiner
Art Unit 2155

brb

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER